

1 Betsy Lynn Snow
2 State Bar Number 015310
3 Navajo-Hopi Legal Services Program
Post Office Box 2990
3 Tuba City, Arizona 86045
(928) 283-3300
4 Fax: (928) 283-3314
E-Mail: betsylynn@frontiernet.net

5 Attorney for Plaintiff
6

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9 Dora Dean Mike, Deceased, by Larry Mike,) CIV-06-866-PCT-EHC
10)
11 Plaintiff,) PLAINTIFF'S RESPONSE TO
vs.) DEFENDANT'S CROSS-MOTION
12) FOR SUMMARY JUDGMENT
13 Office of Navajo and Hopi Indian)
Relocation, an administrative agency of)
the United States,)
14) PLAINTIFF'S REPLY TO
Defendant.) DEFENDANT'S RESPONSE TO
15) PLAINTIFF'S MOTION FOR
_____) SUMMARY JUDGMENT

16 With the Memorandum of Points and Authorities attached, Plaintiff respectfully responds
17 to the Defendant's Cross-Motion for Summary Judgment and replies to the Defendant's
18 Response to Plaintiff's Motion for Summary Judgment.

19 Respectfully submitted this 27th day of March, 2007.

20 NAVAJO-HOPI LEGAL SERVICES PROGRAM
21

22 s/Betsy Lynn Snow
23 Attorney for Plaintiff
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2007, I electronically transmitted Plaintiff's Response to Defendant's Cross-Motion for Summary Judgment and Plaintiff's Reply to Defendant's Response to Plaintiff's Motion for Summary Judgment to the Clerk's Office using the ECF system. A Notice of Electronic Filing was also transmitted to the following ECF registrant, and a courtesy copy provided by mail:

Patrick J. Schneider
Assistant U.S. Attorney
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408

A courtesy copy of the Response and Reply and Notice of Electronic Filing was also provided Judge Carroll.

s/Betsy Lynn Snow
Navajo-Hopi Legal Services Program

1 Betsy Lynn Snow
2 State Bar Number 015310
3 Navajo-Hopi Legal Services Program
4 Post Office Box 2990
5 Tuba City, Arizona 86045
6 (928) 283-3300
7 Fax: (928) 283-3314
8 E-Mail: betsylynn@frontiernet.net

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

10 Dora Dean Mike, Deceased, by Larry Mike,) CIV-06-866-PCT-EHC
11 Plaintiff,) MEMORANDUM OF POINTS AND
12 vs.) AUTHORITIES IN SUPPORT OF
13 Office of Navajo and Hopi Indian) PLAINTIFF'S RESPONSE AND
14 Relocation, an administrative agency of) REPLY
15 the United States,)
16 Defendant.)
17 _____)

ARGUMENT

17 1. PLAINTIFF LARRY MIKE'S TESTIMONY THAT HE RESIDED
18 IN ROCK SPRINGS, NEW MEXICO TEMPORARILY YET MOVED
19 PURSUANT TO THE NAVAJO-HOPI SETTLEMENT ACT IS NOT
INCONSISTENT AND DOES NOT REQUIRE ANY FACTUAL
AMBIGUITIES TO BE RESOLVED IN HIS FAVOR.

20 Defendant cites the case of Lavinia Yannie Whitehair v. ONHIR, CIV-94-1113-PHX-
21 PGR (August 10, 1995) for the proposition that under the general trust responsibility federal
22 agencies have toward tribes, all factual doubts need not be resolved in favor of the Native
23 American relocation benefits applicant. Defendant's Cross-Motion for Summary Judgment, 1.
24 Plaintiff agrees and asserts that the trust responsibility requires broadly-construed statutes with
25 ambiguities *in those statutes* resolved in the Native American's favor. See Rockbridge v.
26 Lincoln, 449 F.2d 567 (1972); Memorandum of Points and Authorities in Support of Plaintiff's

1 Motion for Summary Judgment (hereinafter “Plaintiff’s MPA for MSJ”), 13-14.

2 In Lavinia Yannie Whitehair v. ONHIR, the Court found inconsistent testimony by the
3 Plaintiff, some of which supported ONHIR’s denial of relocation benefits. Ms. Whitehair
4 testified on one occasion that the Hogan she occupied was dismantled prior to her graduation
5 from high school in 1985, probably about 1982. (Tr. 6, 9, AR 27; Federal District Court
6 Decision, 4). On another occasion, she testified along with her aunt and father that the Hogan
7 was dismantled two years before the hearing in 1988. (Tr. 5, 13, 17, AR 27; Federal District
8 Court Decision, 6). At issue was whether she became a head of household before she moved
9 from the Hopi Partitioned Land. Because that did not occur prior to her graduation from high
10 school in 1985¹, ONHIR denied her claim, and the Federal District Court agreed.

11 In the instant matter, no such inconsistent testimony exists. Although Defendant asked
12 on multiple occasions whether Larry Mike and his wife decided to move to Rock Springs, New
13 Mexico at the time of their marriage in June, 1973, Larry’s answer was always, “no.” Tr. at 26,
14 32, 34, AR 122, 128, 130. Larry testified that the couple wanted to build in Jeddito in 1973, but
15 since they could not, waited to see what would happen with the land dispute. Id. at 26, AR 122.

16 Larry’s testimony that he planned on working in Rock Springs after completing his
17 education in Oakland, California is entirely consistent with his later testimony that no body shop
18 work existed in Jeddito. Tr. at 43, AR 139. Dora’s work for four employers in Gallup between
19 1973 and 1987², and the fact that the family did their banking, obtained driver’s licenses and
20 educated their children in Gallup³ is also consistent with the lack of these services and amenities
21 in Jeddito and on the Navajo Reservation generally. *See* Plaintiff’s MPA for MSJ, 12-13. In
22 conclusion, Plaintiff’s testimony that he lived in Rock Springs during the week for employment
23 purposes, yet returned to Jeddito on the weekends is entirely consistent with his later permanent

24
25 ¹*See* Federal District Court Decision at 3.

26 ²Tr. 27-28, AR 123-124; Plaintiff’s Statement of Facts, 4.

27 ³Tr. 36-37, 53; AR 132-33, 149.

1 move to Rock Springs in 1978.

2

3 2. THE TRUST RESPONSIBILITY REQUIRES ONHIR'S
4 RESIDENCY REQUIREMENT IN 25 CFR §700.147(a)(2)
5 TO BE BROADLY CONSTRUED, THUS ENCOMPASSING
6 THE "TEMPORARILY AWAY" STANDARD COMMONLY
7 APPLIED IN RELOCATION BENEFITS CASES.

8

9 No regulations in the CFR or in ONHIR's Management Manual prohibit the use of the
10 "temporarily away" standard for legal residency in "Moved Pursuant to the Act" cases. In fact,
11 ONHIR's Plan Update recognizes the necessity of linking cultural traditions and economic
12 realities to the Congressional intent of the relocation program. In defining "residency," the
13 Agency considered both "actual" or "continual" occupancy of the JUA, and "legal residency"
14 where individuals could be "temporarily away, but maintained substantial, recurring contact."
15 Id. at 7. This latter interpretation was preferred because it took into consideration the fact that
16 many residents left temporarily to seek employment, job training or other opportunities. Id.

17

18 In Morton v. Ruiz, 415 US 199 (1974), cited in Plaintiff's MPA for MSJ for the
19 proposition that federal agencies should consider an individual's economic and social
20 circumstances in applying residency standards, the testimony of Assistant BIA Commissioner
21 Zimmerman at the 1959 Senate Hearing authorizing BIA expenditures found "[o]pportunities for
22 self-support on or near [Indian] reservations wholly inadequate." Morton v. Ruiz, 415 US 199,
23 288. Economic opportunities in Jeddito in 1974 were not significantly better than in 1959. See
24 Plaintiff's MPA for MSJ, 11-13.

25

26 3. DEFENDANT'S INSISTENCE THAT THE PLAINTIFFS COULD
27 NOT HAVE "MOVED PURSUANT TO THE ACT" DESPITE THE
ADVICE OF THEIR ELDERS AT THE 1973 WEDDING
CEREMONY TURNS NAVAJO CULTURE ON ITS HEAD AND
IGNORES THE REALITIES OF LIFE ON THE JUA IN 1973.

28 The Navajo wedding ceremony is a sacred event.⁴ Nellie Mike's extensive testimony on

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

80

81

82

83

84

85

86

87

88

89

90

91

92

93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

108

109

110

111

112

113

114

115

116

117

118

119

120

121

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206

207

208

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

269

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285

286

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

333

334

335

336

337

338

339

340

341

342

343

344

345

346

347

348

349

350

351

352

353

354

355

356

357

358

359

360

361

362

363

364

365

366

367

368

369

370

371

372

373

374

375

376

377

378

379

380

381

382

383

384

385

386

387

388

389

390

391

392

393

394

395

396

397

398

399

400

401

402

403

404

405

406

407

408

409

410

411

412

413

414

415

416

417

418

419

420

421

422

423

424

425

426

427

428

429

430

431

432

433

434

435

436

437

438

439

440

441

442

443

444

445

446

447

448

449

450

451

452

453

454

455

456

457

458

459

460

461

462

463

464

465

466

467

468

469

470

471

472

473

474

475

476

477

478

479

480

481

482

483

484

485

486

487

488

489

490

491

492

493

494

495

496

497

498

499

500

501

502

503

504

505

506

507

508

509

510

511

512

513

514

515

516

517

518

519

520

521

522

523

524

525

526

527

528

529

530

531

532

533

534

535

536

537

538

539

540

541

542

543

544

545

546

547

548

549

550

551

552

553

554

555

556

557

558

559

560

561

562

563

564

565

566

567

568

569

570

571

572

573

574

575

576

577

578

579

580

581

582

583

584

585

586

587

588

589

590

591

592

593

594

595

596

597

598

599

600

601

602

603

604

605

606

607

608

609

610

611

612

613

614

615

616

617

618

619

620

621

622

623

624

625

626

627

628

629

630

631

632

633

634

635

636

637

638

639

640

641

642

643

644

645

646

647

648

649

650

651

652

653

654

655

656

657

658

659

660

661

662

663

664

665

666

667

668

669

670

671

672

673

674

675

676

677

678

679

680

681

682

683

684

685

686

687

688

689

690

691

692

693

694

695

696

697

698

699

700

701

702

703

704

705

706

707

708

709

710

711

712

713

714

715

716

717

718

719

720

721

722

723

724

725

726

727

728

729

730

731

732

733

734

735

736

737

738

739

740

741

742

743

744

745

746

747

748

749

750

751

752

753

754

755

756

757

758

759

760

761

762

763

764

765

766

767

768

769

770

771

772

773

774

775

776

777

778

779

780

781

782

783

784

785

786

787

788

789

790

791

792

793

794

795

796

797

798

799

800

801

802

803

804

805

806

807

808

809

810

811

812

813

814

815

816

817

818

819

820

821

822

823

824

825

826

827

828

829

830

831

832

833

834

835

836

837

838

839

840

841

842

843

844

845

846

847

848

849

850

851

852

853

854

855

856

857

858

859

860

861

862

863

864

865

866

867

868

869

870

871

872

873

874

875

876

877

878

879

880

881

882

883

884

885

886

887

888

889

890

891

892

893

894

895

896

897

898

899

900

901

902

903

904

905

906

907

908

909

910

911

912

913

914

915

916

917

918

919

920

921

922

923

924

925

926

927

928

929

930

931

932

933

934

935

936

937

938

939

940

941

942

943

944

945

946

947

948

949

950

951

952

953

954

955

956

957

958

959

960

961

962

963

964

965

966

967

968

969

970

971

972

973

974

975

976

977

978

979

980

981

982

983

984

985

986

987

988

989

990

991

992

993

994

995

996

997

998

999

1000

1001

1002

1003

1004

1005

1006

1007

1008

1009

1010

1011

1012

1013

1014

1015

1016

1017

1018

1019

1020

1021

1022

1023

1024

1025

1026

1027

1028

1029

1030

1031

1032

1033

1034

1035

1036

1037

1038

1039

1040

1041

1042

1043

1044

1045

1046

1047

1048

1049

1050

1051

1052

1053

1054

1055

1056

1057

1058

1059

1060

1061

1062

1063

1064

1065

1066

1067

1068

1069

1070

1071

1072

1073

1074

1075

1076

1077

1078

1079

1080

1081

1082

1083

1084

1085

1086

1087

1088

1089

1090

1091

1092

1093

1094

1095

1096

1097

1098

1099

1100

1101

1102

1103

1104

1105

1106

1107

1108

1109

1110

1111

1112

1113

1114

1115

1116

1117

1118

1119

1120

1121

1122

1123

1124

1125

1126

1127

1128

1129

1130

1131

1132

1133

1134

1135

1136

1137

1138

1139

1140

1141

1142

1143

1144

1145

1146

1147

1148

1149

1150

1151

1152

1153

1154

1155

1156

1157

1158

1159

1160

1161

1162

1163

1164

1165

1166

1167

1168

1169

1170

1171

1172

1173

1174

1175

1176

1177

1178

1179

1180

1181

1182

1183

1184

1185

1186

1187

1188

1189

1190

1191

1192

1193

1194

1195

1196

1197

1198

1199

1200

1201

1202

1203

1204

1205

1206

1207

1208

1209

1210

1211

1212

1213

1214

1215

1216

1217

1218

1219

1220

1221

1222

1223

1224

1225

1226

1227

1228

1229

1230

1231

1232

1233

1234

1235

1236

1237

1238

1239

1240

1241

1242

1243

1244

1245

1246

1247

1248

1249

1250

1251

1252

1253

1254

1255

1256

1257

1258

1259

1260

1261

1262

1263

1264

1265

1266

1267

1268

1269

1270

1271

1272

1273

1274

1275

1276

1277

1278

1279

1280

1281

1282

1283

1284

1285

1286

1287

1288

1289

1290

1291

1292

1293

1294

1295

1296

1297

1298

1299

1300

1301

1302

1303

1304

1305

1306

1307

1308

1309

1310

1311

1312

1313

1314

1315

<p

1 the families' participation in the Mikes' wedding echoes the reverence Navajo elders are given.
2 See Tr. at 47, AR 143. Such reverence has been officially recognized.⁵ To insist that the Mikes
3 ignore their elders' advice regarding events happening around them in 1972 and 1973 requires
4 they turn their back on their culture and the entire Dine way of life.

5 While no evidence exists that Plaintiffs' relatives were officials with the Navajo Nation
6 or possessed more than anecdotal knowledge of the events occurring on the FJUA in 1972-73, it
7 is undisputed that a number of events preceded the passage of the Act itself. These included a
8 building freeze and livestock reduction program, the latter mandating cancellation of all FJUA
9 grazing permits. See Plaintiff's MPA for MSJ, 10-11. The fact that Plaintiffs' elders discussed
10 the building freeze with them is powerful evidence that the freeze was common knowledge at
11 that time. Tr. at 5, 47, AR 101, 143. Also common knowledge would have been the evictions
12 from nearby Bluebird and Echo Canyons in District 6, eight months earlier in November, 1972.

13 Bluebird Canyon is only 4 or 5 miles from Jeddito. Word of the Hopi burning of hogans
14 in Echo Canyon and eviction of residents in both areas would have travelled to nearby
15 communities well before June, 1973,⁶ the time of the wedding ceremony. While the evictions
16 from District 6 and the relocation from the FJUA are separate legal events, to the Navajos they
17 are both land disputes with the Hopi Tribe. To imply that Navajo families lived in a vacuum in

18
19 ⁵“Our elders and our medicine people, the teachers of our traditional laws, values and
20 principles must always be respected and honored if the people and the government are to
21 persevere and thrive; the teachers of the elders and medicine people, their participation in the
22 government and their contributions of the traditional values and principles of the Dine life way
23 will ensure the growth of the Navajo Nation....” Navajo Nation Counsel Resolution CN-69-02,
24 Exhibit A, 4-5 (November 13, 2002).

25 ⁶The testimony of Finley Nelson and Danny George in case 87-0393-PCT-GLH (1988)
26 was that on November 10, 1972, the Hopis came to Echo Canyon with guns, police and aircraft
27 and set the residents' hogans on fire with their possessions still inside. A day later, busses
[interpreted as “trucks” on page 44] came from Window Rock to transport the evictees there.
See excerpts of testimony by Finley Nelson and Danny George, Finley Nelson and Anley Nelson
v. NHIRC, Tr. of Finley Nelson Hearing at 15-19; 34-44 (October 12, 1984) attached as Exhibit
2. Finley Nelson also testified at page 15 that the building freeze affected residents of District 6.

1 1973 and that "the" land dispute only became "official" on December 22, 1974 disregards the
2 realities of life on the FJUA.

3
4 4. THE FACT THAT PLAINTIFF DID NOT APPLY FOR
RELOCATION BENEFITS UNDER "MOVED PURSUANT
TO THE ACT REGULATIONS" HAS NO BEARING ON
5 THE FINAL ADJUDICATION OF HER CLAIM.

6 Defendant in his Statement of Facts, paragraph 1 notes that Plaintiff Dora Dean Mike did
7 not apply under "Moved Pursuant to the Act" regulations on March 6, 1980. This is entirely
8 irrelevant to the adjudication of her claim. Plaintiff's application for benefits was the same form
9 used for residents of District 6, the HPL and the NPL. ONHIR supplies the quarter quad (QQL)
10 or homesite location often from information provided by the applicant, but it not uncommon for
11 that quarter quad location to be inaccurate or reflective of only one of an applicant's multiple
12 homesites. The theory under which an applicant's claim to benefits is pursued is discussed with
13 ONHIR at an explanatory conference prior to the hearing. The Explanatory Conference Record
14 dated January 31, 1997 verifies that Plaintiff was claiming eligibility based on "Section B" or
15 "Moved Pursuant to the Act" regulations. AR 66. In her opening statement, Plaintiff's Counsel
16 merely reiterated what ONHIR already knew. Tr. at 2, AR 98.

17
18 5. DEFENDANT'S STATEMENT OF FACTS, PARAGRAPH 27
IS INCORRECT. NELLIE MIKE ADVISED HER SON
19 HE COULD REPAIR AND OWN THE FAMILY HOME AFTER
SHE HAD MOVED TO GALLUP, BUT BEFORE SHE
20 RETURNED TO ROCK SPRINGS IN 1978 or 1979.

21 In his Statement of Facts, Defendant asserts that Plaintiff's mother, Nellie Mike advised
22 Larry before she moved to Gallup in 1974 that he could own and repair her home. This is a
23 misreading of the testimony:

24 SNOW: You testified earlier that you lived with Larry and
25 Dora for a year and then moved to Gallup. Was it
about 1978 when you came back to Rock Springs
for your new home?
26 INTERP/N.MIKE: Yes, it's around that time.

1 SNOW: Did you build your new home in Rock Springs
2 yourself?
3 INTERP/N.MIKE: Yes. And my son also helped me.
4 SNOW: Did you decide at some point to give the home
5 where Larry and Dora were staying to them?
6 INTERP/N.MIKE: Yes, I told him he could have it and I told him
7 to go ahead and fix it back up and stay in it.
8 SNOW: I told both of them that.
9 INTERP/N.MIKE: Did you tell them that before *you moved back*
10 from *Gallup*?
11 SNOW: Yes.
12 INTERP/N.MIKE: And is that when Larry remodeled the home they
13 were living in?
14 SNOW: Yes.

15 Tr. at 51, AR 147, emphasis supplied.

16 Nellie's testimony was that she moved to Gallup in 1974, lived there about five years,
17 then returned to Rock Springs as a new home was being built for her. Tr. at 49, 51, AR 145,
18 147. Before she moved back from Gallup in 1978 or 1979, she told Larry he could repair the
19 home. Id at 51. The significance of the testimony is that in Defendant's reading, Nellie advised
20 her son he could own the home permanently sometime in 1974, presumably before December 22,
21 1974. That would more likely support Defendant's claim that the move to Rock Springs was
22 permanent as early as June, 1973 despite Plaintiff's extensive and consistent testimony to the
23 contrary. Nellie Mike's testimony, however, was that she authorized Larry's repair and
24 ownership sometime before moving back to Rock Springs from Gallup in 1978 or 1979. As
25 Nellie lived in Gallup for about five years, it is more likely she decided to give Larry the older
26 Rock Springs home only after she knew she was receiving a new home of her own. Larry
27 himself testified that when he and Dora first occupied the home in 1973, it was already in good
28 condition, and he did not repair it at that time. Tr. at 39, AR 135.

23 CONCLUSION

24 The Defendant argues the Hearing Officer's denial of Plaintiff Larry Mike is neither
25 arbitrary or capricious, nor contrary to Law. Plaintiff argues substantial evidence supports the
26 couple's legal residence in Jeddito NPL on December 22, 1974 and their "move pursuant to the
27

1 "Act" in July, 1978. Clearly the couple would have lived in Jeddito had they been able to build a
2 home there; it was only with the passage of considerable time they settled in Rock Springs
3 permanently.

NAVAJO-HOPI LEGAL SERVICES PROGRAM

s/Betsy Lynn Snow
Attorney for Plaintiff

CERTIFICATE OF SERVICE

10 I hereby certify that on March 27, 2007, I electronically transmitted the Memorandum of
11 Points and Authorities in Support of Plaintiff's Reply to Defendant's Response to Plaintiff's
12 Motion for Summary Judgment and Plaintiff's Response to Defendant's Cross-Motion for
Summary Judgment to the Clerk's Office using the ECF system. A Notice of Electronic Filing
was also transmitted to the following ECF registrant, and a courtesy copy provided by mail:

14 Patrick J. Schneider
15 Assistant U.S. Attorney
16 Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408

18 s/Betsy Lynn Snow
Navajo-Hopi Legal Services Program

EXHIBIT 1

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Amending Title 1 of the Navajo Nation Code to Recognize the
Fundamental Laws of the Diné

WHEREAS:

1. The Navajo Nation Council is the governing body of the Navajo Nation, as provided for in 2 N.N.C. §102 (A); and

2. The Diné have always been guided and protected by the immutable laws provided by the Diyin, the Diyin Diné é, Nahasdzáá and Yádilhil; these laws have not only provided sanctuary for the Diné Life Way but has guided, sustained and protected the Diné as they journeyed upon and off the sacred lands upon which they were placed since time immemorial; and

3. It is the duty of the Nation's leadership to preserve, protect and enhance the Diné Life Way and sovereignty of the people and their government; the Nation's leaders have always lived by these fundamental laws, but the Navajo Nation Council has not acknowledged and recognized such fundamental laws in the Navajo Nation Code; instead the declaration and practice of these fundamental laws have, up to this point in time, been left to those leaders in the Judicial Branch; and

4. The Navajo Nation Council is greatly concerned that knowledge of these fundamental laws is fading, especially among the young people; the Council is also concerned that this lack of knowledge may be a primary reason why the Diné are experiencing the many negative forms of behavior and natural events that would not have occurred had we all observed and lived by these laws; and

5. The Navajo Nation Council finds that the Diné Life Way must be protected and assured by incorporating these fundamental laws into the Navajo Nation Code in a manner that will openly acknowledge and recognize their importance and would generate interest to learn among all Diné; and

6. The Navajo Nation Council finds that the acknowledgement, recognition and teaching of these laws do not contravene 1 N.N.C. §4; the incorporation of these fundamental laws into the Navajo Nation Code is not governmental establishment of religion nor is it prohibiting the free exercise of religion; the Navajo Nation Council and the Diné have always recognized and respected the principle of these fundamental laws and the Diné Life Way that all Diné have the right and freedom to worship as they choose; and the Navajo Nation Council and the Diné recognize that the Diné Life Way is a holistic approach to living one's life whereby one does not separate what is deemed worship and what is deemed secular in order to live the Beauty Way; and

7. The Navajo Nation Council further finds that it is entirely appropriate for the government itself to openly observe these fundamental laws in its public functions such as the installation or inauguration of its leaders and using and placing the appropriate symbols of the Diné Life Way in its public buildings and during legislative and judicial proceedings; and

8. The Navajo Nation Council further finds that all elements of the government must learn, practice and educate the Diné on the values and principles of these laws; when the judges adjudicate a dispute using these fundamental laws, they should thoroughly explain so that we can all learn; when leaders perform a function using these laws and the symbols of the Diné Life Way, they should teach the public why the function is performed in a certain way or why certain words are used; and

9. The Navajo Nation Council further finds that all the details and analysis of these laws cannot be provided in this acknowledgement and recognition, and such an effort should not be attempted; the Navajo Nation Council finds that more work is required to elucidate the appropriate fundamental principles and values which are to be used to educate and interpret the statutory laws already in place and those that may be enacted; the Council views this effort today as planting the seed for the education of all Diné so that we can continue to Walk In Beauty; and

10. The Navajo Nation Council commends the Honorable Edward T. Begay, the Speaker of the Navajo Nation Council, Mr. Henry Barber and Legislative Staff, and all the medicine people and elders who assisted in the development of this proposed legislation; the Council deems it in the best interest of the Navajo Nation to adopt the proposed legislation attached hereto as Exhibit "A" and incorporated herein by reference.

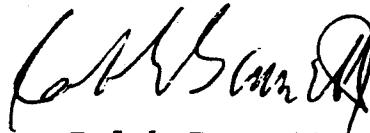
NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby amends Title 1 of the Navajo Nation Code by adopting the attached legislation, marked Exhibit "A".

2. The Navajo Nation Council directs the Office of Legislative Counsel to codify this legislation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 45 in favor, 4 opposed and 1 abstained, this 1st day of November 2002.



Ralph Bennett, Jr.
Speaker Pro Tem
Navajo Nation Council

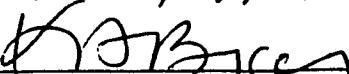
11-08-02

Date

Motion: Harold Wauneka
Second: Freddie Howard

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 (C) (10), on this 13th day of November 2002.



Kelsey A. Begaye, President

Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005(C)(10) this _____ day of _____ 2002 for the reason(s) expressed in the attached letter to the Speaker.

Kelsey A. Begaye, President
Navajo Nation

Title 1
General Provisions

Chapter 1. The Foundation of the Diné, Diné Law and Diné Government

§ 1. Diné Bi Beehaz'áanii Bitsé Siléí -Declaration of the Foundation of Diné Law

We, the Diné, the people of the Great Covenant, are the image of our ancestors and we are created in connection with all creation.

Diné Bi Beehaz'áanii Bitsí Siléí

Diyin Dine'é,

Sin dóó sodizin,

Bee

Nahasdzáán dóó yádilhil nitsáhákees yił hadeidiilaa,

Tó dóó dził diyinii nahat'á yił hadeidiilaa,

Níłch'í dóó nanse' altaas'éí iiná yił hadediilaa,

Kq', adinídiin dóó ntł'iz náádahaniihjí' sihasin yił hadediilaa.

Díí ts'ídá aláají' nihi beehaz'áanii bitse siléí nihá' ályaa.

Nitsáhákees éí nahat'á bitsé silá.

Iiná éí sihasin bitsé silá.

Hanihi' diilyaadi díí nihiihdaahya' dóó bee hadíniit'é.

Binahji' nihéého' dílzingíí éíí:

Nihízhí',

Ádóone' é niidlíinii,

Nihinéí',

Nihee ó'ool jjíł',

Nihi chaha'oh,

Nihi kék' ehashchiín.

Díí bik'ehgo Diyin Nohookáá Diné nihi'doo'niid.

Kodóó dah'adíniisá dóó dah'adiidéél.

Áko diíshjíjgi éí nitsáhákees, nahat'á, iiná, saad, oodla',

Dóó beehaz'áanii al'ąą́ adaat'éego nihitah nihwileeh,

Ndi nihi beehaz'áanii bitsé siléí nhá ndaahya'ąą́ t'ahdii doo lahgo ánéehda.

Éí biniinnaa t'áá nanihi'deelyáhąą́ doo níłch'í diyin hinááh nihiihdaahya'ąą́ ge'át'éigo,

T'áá Diné niidlíjgo náásgóó ahool'á.

The Holy People ordained,

Through songs and prayers,

That

Earth and universe embody thinking,

Water and the sacred mountains embody planning,

Air and variegated vegetation embody life,

Fire, light, and offering sites of variegated sacred stones embody wisdom.

These are the fundamental tenets established.

Thinking is the foundation of planning.

Life is the foundation of wisdom.

Upon our creation, these were instituted within us and we embody them.

Accordingly, we are identified by:

Our Diné name,
Our clan,
Our language,
Our life way,
Our shadow,
Our footprints.

Therefore, we were called the Holy Earth-Surface-People.

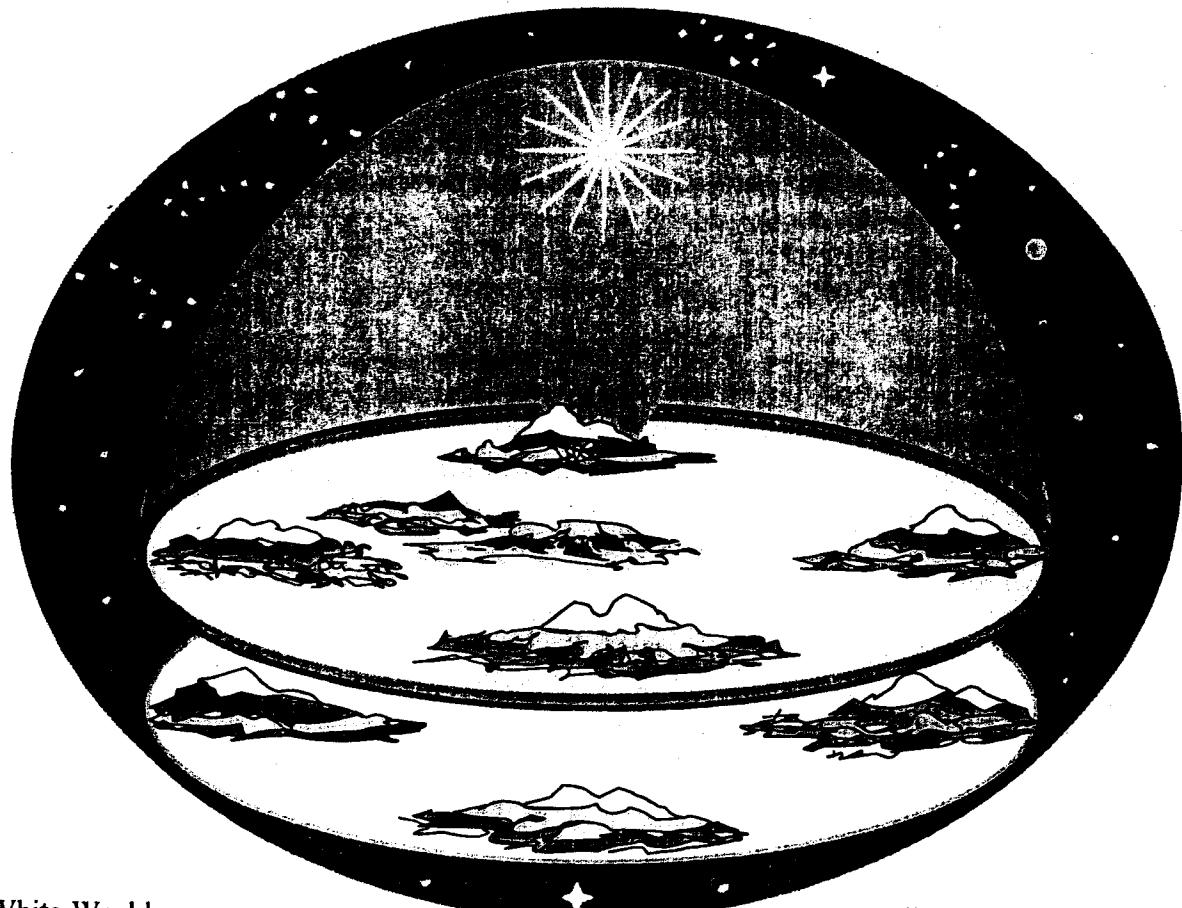
From here growth began and the journey proceeds.

Different thinking, planning, life ways, languages, beliefs, and laws appear among us,

But the fundamental laws placed by the Holy People remain unchanged.

Hence, as we were created and with living soul, we remain Diné forever.¹

Mother Earth and Father Universe



White World

§ 2. Diné Bi Beenahaz'áanii

Glittering World

¹ The Navajo Nation is grateful to Mike Mitchell, Wilson Aronilth, Peggy Scott, Laura Wallace, the late Andrew Natonabah, and the late Dr. Dean Jackson who developed the declaration, with guidance from the Navajo Medicine-Men Association and Navajo Community College. The revision of the declaration interpretation was made by: Laura Wallace, Division of Diné Education; Roger Begay, Diné Language and Cultural Development – Division of Diné Education; and Henry Barber, Office of the Speaker.

The Diné bi beenahaz'áanii embodies Diyin bitsáádéé' beehaz'áanii (Traditional Law), Diyin Dine'é bitsáádéé' beehaz'áanii (Customary Law), Nahasdzáán dóó Yádiłhił bitsáádéé' beehaz'áanii (Natural Law), and Diyin Nohookáá Diné bi beehaz'áanii (Common Law).

These laws provide sanctuary for the Diné life and culture, our relationship with the world beyond the sacred mountains, and the balance we maintain with the natural world.

These laws provide the foundation of Diné bi nahat'á (providing leadership through developing and administering policies and plans utilizing these laws as guiding principles) and Diné sovereignty. In turn, Diné bi nahat'á is the foundation of the Diné bi naat'á (government). Hence, the respect for, honor, belief and trust in the Diné bi beenahaz'áanii preserves, protects and enhances the following inherent rights, beliefs, practices and freedoms:

- A. The individual rights and freedoms of each Diné (from the beautiful child who will be born tonight to the dear elder who will pass on tonight from old age) as they are declared in these laws; and
- B. The collective rights and freedoms of the Diyin Nihookáá Diné as a distinct people as they are declared in these laws; and
- C. The fundamental values and principles of Diné Life Way as declared in these laws; and
- D. Self-governance; and
- E. A government structure consisting of Hózhóójí Nahat'á (Executive Branch), Naat'ájí Nahat'á (Legislative Branch), Hashkéejí Nahatá (Judicial Branch), and the Naayee'jí Nahat'á (National Security Branch); and
- F. That the practice of Diné bi nahat'á through the values and life way embodied in the Diné bi beenahaz'áanii provides the foundation of all laws proclaimed by the Navajo Nation government and the faithful adherence to Diné Bi Nahat'á will ensure the survival of the Navajo Nation; and
- G. That Diné bi beenahaz'áanii provides for the future development and growth of a thriving Navajo Nation regardless of the many different thinking, planning, life ways, languages, beliefs, and laws that may appear within the Nation; and
- H. The right and freedom of the Diné to be educated as to Diné Bi Beenahaz'áanii; and

- I. That Diné Bi Beenahaz'áanii provides for the establishment of governmental relationships and agreements with other nations; that the Diné shall respect and honor such relationships and agreements and that the Diné can expect reciprocal respect and honor from such other nations; and

§3. Diyin Bits'áádéé' Beehaz'áanii -Diné Traditional Law

The Diné Traditional Law declares and teaches that:

- A. It is the right and freedom of the Diné to choose leaders of their choice; leaders who will communicate with the people for guidance; leaders who will use their experience and wisdom to always act in the best interest of the people; and leaders who will also ensure the rights and freedoms of the generations yet to come; and
- B. All leaders chosen by the Diné are to carry out their duties and responsibilities in a moral and legal manner in representing the people and the government; the people's trust and confidence in the leaders and the continued status as a leader are dependent upon adherence to the values and principles of Dine bi beenahaz'áanii; and
- C. The leader(s) of the executive branch (Aláaji Hózhóójí Naat'ááh) shall represent the Navajo Nation to other peoples and nations and implement the policies and laws enacted by the legislative branch; and
- D. The leader(s) of the legislative branch (Aláaji' Naat'áájí Naat'ááh and Aláaji' Naat'áájí Ndaanit'áii or Naat'aanii) shall enact policies and laws to address the immediate and future needs; and
- E. The leader(s) of the judicial branch (Aláaji' Haskééjí Naat'ááh) shall uphold the values and principles of Diné bi beenahaz'áanii in the practice of peace making, obedience, discipline, punishment, interpreting laws and rendering decisions and judgments; and
- F. The leader(s) of the security branch (Aláaji' Naayééjí Naat'ááh) are entrusted with the safety of the people and the government. To this end, the leader(s) shall maintain and enforce security systems and operations for the Navajo Nation at all time and shall provide services and guidance in the event of severe national crisis or military-type disasters; and
- G. Our elders and our medicine people, the teachers of the traditional laws, values and principles must always be respected and honored if the people and the

government are to persevere and thrive; the teachings of the elders and medicine people, their participation in the government and their contributions of the traditional values and principles of the Diné life way will ensure the growth of the Navajo Nation; and from time to time, the elders and medicine people must be requested to provide the cleansing, protection prayers, and blessing ceremonies necessary for securing healthy leadership and the operation of the government in harmony with traditional law; and

- H. The various spiritual healings through worship, song and prayer (Nahaghá) must be preserved, taught, maintained and performed in their original forms; and
- I. The Diné and the government must always respect the spiritual beliefs and practices of any person and allow for the input and contribution of any religion to the maintenance of a moral society and government; and
- J. The Diné and the government can incorporate those practices, principles and values of other societies that are not contrary to the values and principles of Diné Bi Beenahaz'áanii and that they deem is in their best interest and is necessary to provide for the physical and mental well-being for every individual.

§4. Divin Dine é Bitsáádéé Beehaz'áanii-Diné Customary Law

The Diné Customary Law declares and teaches that:

- A. It is the right and freedom of the people that there always be holistic education of the values and principles underlying the purpose of living in balance with all creation, walking in beauty and making a living; and
- B. It is the right and freedom of the people that the sacred system of k'é, based upon the four clans of Kiiyaa'áanii, Todích'íinii, Honagháahnii and Hashtéishnii and all the descendant clans be taught and preserved; and
- C. It is the right and freedom of the people that the sacred Diné language (nihiinéé') be taught and preserved; and
- D. It is the right and freedom of the people that the sacred bonding in marriage and the unity of each family be protected; and
- E. It is the right and freedom of the people that every child and every elder be respected, honored and protected with a healthy physical and mental environment, free from all abuse.

F. It is the right and freedom of the people that our children are provided with education to absorb wisdom, self-knowledge, and knowledge to empower them to make a living and participate in the growth of the Navajo Nation.

§ 5. Nahasdzaán dóó Yádilhil Bits’ájádéé’ Beehaz’áanii -Diné Natural Law,

Dine Natural Law declares and teaches that:

- A. The four sacred elements of life, air, light/fire, water and earth/pollen in all their forms must be respected, honored and protected for they sustain life; and
- B. The six sacred mountains, Sisnaajini, Tsoodzil, Dook’o’oosliíd, Dibé Nitsaa, Dził Na’oodiłii, Dził Ch’ool’íí, and all the attendant mountains must be respected, honored and protected for they, as leaders, are the foundation of the Navajo Nation; and
- C. All creation, from Mother Earth and Father Sky to the animals, those who live in water, those who fly and plant life have their own laws and have rights and freedoms to exist and;
- D. The Diné have the sacred obligation and duty to respect, preserve and protect all that was provided for we were designated as the steward for these relatives through our use of the sacred gifts of language and thinking; and
- E. Mother Earth and Father Sky is part of us as the Diné and the Diné is part of Mother Earth and Father Sky; The Diné must treat this sacred bond with love and respect without exerting dominance for we do not own our mother or father.
- F. The rights and freedoms of the people to the use of the sacred elements of life as mentioned above and to the use of land, natural resources, sacred sites and other living beings must be accomplished through the proper protocol of respect and offering and these practices must be protected and preserved for they are the foundation of our spiritual ceremonies and the Diné life way; and
- G. It is the duty and responsibility of the Diné to protect and preserve the beauty of the natural world for future generations;

§6. Diyin Nohookáá Diné Bi Beehaz’áanii- Diné Common Law,

The Diné Common Law declares and teaches that:

- A. The knowledge, wisdom, and practices of the people must be developed and exercised in harmony with the values and principles of the Diné Bi

Beenahaz'áanii; and in turn, the written laws of the Navajo Nation must be developed and interpreted in harmony with Diné Common Law; and

- B. The values and principles of Diné Common Law must be recognized, respected, honored and trusted as the motivational guidance for the people and their leaders in order to cope with the complexities of the changing world, the need to compete in business to make a living and the establishment and maintenance of decent standards of living; and
- C. The values and principles of Diné Common Law must be used to harness and utilize the unlimited interwoven Diné knowledge, with our absorbed knowledge from other peoples. This knowledge is our tool in exercising and exhibiting self-assurance and self-reliance and in enjoying the beauty of happiness and harmony; and

Diné Original Law Structure

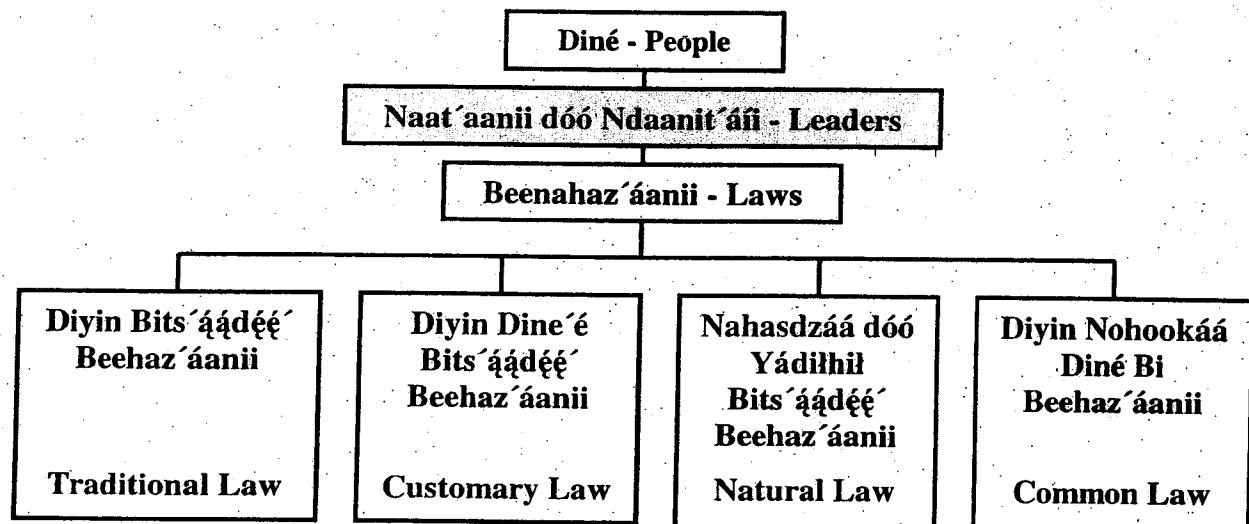


EXHIBIT 2

UNITED STATES GOVERNMENT

14 BEFORE: HAROLD J. MERKOW, Hearing Officer

October 12, 1984

Navajo Hopi Indian Relocation Commission
Flagstaff, Arizona

1	
2	EXAMINATION OF WITNESSES
3	FINLEY NELSON, Applicant
4	Direct Examination by Mr. Austin 4
5	Cross Examination by Mr. Tessler 21
6	Redirect Examination by Mr. Austin 29
7	Exam of Hearing Officer by Mr. Merkow 30
8	Reexamination by Mr. Austin 32
9	Reexamination by Mr. Tessler 33
10	DANNY GEORGE
11	Direct Examination by Mr. Austin 34
12	Direct Examination by Mr. Osetek 40
13	Cross Examination by Mr. Tessler 41
14	Exam of Hearing Officer by Mr. Merkow 43
15	Reexamination by Mr. Austin 44
16	Reexamination by Mr. Tessler 45
17	RAYMOND NELSON
18	Not Called pursuant to stipulation 54
19	JAMES DALGAI
20	Direct Examination by Mr. Osetek 55
21	Cross Examination by Mr. Tessler 64
22	Redirect Examination by Mr. Austin 65
23	
24	
25	

1 Q Did you have personal property anywhere else other
2 than Echo Canyon on November 10, 1972?

3 A None.

4 Q Did you own any hogans outside District 6 on
5 November 10th, 1972?

6 A (Shakes head) I didn't have any house outside
7 because, you know, there was a law against it. I couldn't do
8 that. People would not let me do that. This land dispute
9 is why we couldn't just build anywhere. It's been going on
10 for a long time.

11 Q On November 10th, 1972 did you own anything outside
12 District 6?

13 A None outside.

14 Q What happened to your hogan that was in District 6?

15 A It was -- they burned it. They burned it all in
16 one day. I didn't see it though. Danny George witnessed
17 that.

18 Q Who burned the hogan?

19 MR. TESSLER: Objection. He stated he didn't see that;
20 he can't answer.

21 MR. MERKOW: That's right.

22 MR. AUSTIN:

23 Q When was the first time --

24 MR. CSETEK: Which rules of evidence are we using?

25 MR. MERKOW: The rules are relaxed because it's an

1 administrative hearing; but nonetheless it was hearsay.

2 MR. OSETEK: Which is a relaxed rule that would
3 allow hearsay.

4 MR. MERKOW: Not in this case. I'm not allowing that
5 answer.

6 MR. OSETEK: Well, I object, take exception.

7 MR. AUSTIN:

8 Q After November 10, 1972, when was the first time
9 that you went back to Echo Canyon where your hogan was?

10 A I didn't go to my house on that day or after. I
11 went straight to my relatives in Window Rock and I started
12 thinking of filing a complaint and I was looking for someone
13 or an attorney that could help me and I went to see a man in
14 Albuquerque named Bob Sure (phonetic) after I talked with my
15 relatives but at that hogan there was nothing there.

16 Q Approximately how long after November 10th, 1972
17 did you go back to Echo Canyon?

18 A One week later.

19 Q What did you see there?

20 A Each house was burnt and I went to each one of
21 them. There is also another house that belonged to a man
22 named Kabinto. That was a little ways from where we all
23 lived and they did the same thing there. There was nothing
24 there.

25 Q Did you have any personal property in the hogan

1 that you owned when it was burned?

2 A Yes. It was in the hogan.

3 Q Have you ever owned any livestock?

4 A Yes, I did. I sold them all. Because of Robert
5 Bennett's freeze I sold my livestock.

6 Q Approximately when was this?

7 A When Clarence Hamilton and Nakki was chairman.

8 Q About what years or what period of time are you
9 talking about?

10 A I don't recall the exact years. I don't recall
11 the exact years because, you know, it's been quite a while
12 but right after, everything was fresh in my memory. The
13 Navajos, we couldn't foresee these disputes going on to this
14 day.

15 Q When you went over to your father-in-law's
16 residence, Joe Skunk, in October 1972, who went with you?

17 A Just me and my wife.

18 Q Where were your kids at?

19 A They were in school.

20 Q Have you ever met Mr. Jim Dalgai?

21 A Yes.

22 Q When did you meet him?

23 A When I applied here is when I got to know him.

24 Q Did you ever tell him that you moved out of
25 District 6 in 1962?

1 A No. Jim Dalgai came out to see me at Echo Canyon.
2 I went with him to my hogan and told him that here is where
3 we live and this was certain people's houses and all my
4 relatives there and I told him -- He didn't go over there
5 but I told him, just pointed out where the hogan where I
6 lived at. That's where I lived at. He never went over
7 there himself to look at each one of them because all of them
8 burned.

9 Q Where were you in 1963?

10 A I think I was in the hospital then in Prescott.
11 I can't hear that good.

12 Q When did you enter Whipple Hospital in Prescott?

13 A '62..

14 Q How long did you stay there?

15 A For a year.

16 Q One week after November 10th, 1972 when you went
17 back to Echo Canyon, did you see anything that was left of
18 your residence?

19 A There was nothing there.

20 Q Was there still evidence of a hogan that was left
21 after November 10th, 1972?

22 A You could see it, you know, the foundation like
23 structure of all the burned hogans. That's how it was.

24 Q Can you still see the foundation today?

25 A Yes, you can still see it even after all these

1 years.

2 MR. AUSTIN: I think that will be enough for me but
3 maybe Mr. Osetek would like to ask some questions.

4 MR. MERKOW: Okay.

5 BY MR. OSETEK:

6 Q When did Joe Skunk die?

7 A It was very recently. I don't recall the exact
8 date. Two or three. I don't recall the exact years.

9 Q When you were back in 1963, you were in the hospital,
10 how long was your hospitalization? How many years were you
11 in different hospitals at that point in time?

12 A After leaving Prescott I went and stayed at Fort
13 Stip. After that I went to the Presbyterian Hospital and
14 then to the Indian Hospital where I had my surgery.

15 Q How many years are we talking about?

16 A I don't know the exact number of years. Only
17 my records would reflect the exact years.

18 Q Where was your family all that time when you were
19 in the hospital, your wife and four, five, six children,
20 whatever?

21 A They were back over with the hogan, was in Echo
22 Canyon.

23 Q Was your family there during the whole time period
24 when you were in the hospital?

25 A Yes. They were there.

1 (PROCEEDINGS TO RESUME AT 1:30; RESUMED 1:52 P.M.)

2

3 DANNY GEORGE,

4

having been first duly sworn through the interpreter to
5 tell the truth and nothing but the truth, was examined and
6 testified as follows:

7

8 DIRECT EXAMINATION

9

BY MR. AUSTIN:

10

Q Please state your name.

11

A Danny George.

12

Q Where are you from?

13

A White Cone.

14

Q Do you know Mr. Finley Nelson?

15

A Yes. He's my uncle.

16

Q How well do you know Mr. Finley Nelson?

17

A I know him very well. We come from the same
place.

19

Q Are you aware of the eviction that took place on
November 10, 1972?

21

A Yes.

22

Q Where were you at that time?

23

A I was in Window Rock at the fairgrounds. There
was a trailer put up for us, two tents.

25

Q Were you one of the people evicted from District

1 6?

2 A Yes.

3 Q What date did that take place?

4 A November 10, 1972.

5 Q Where were you at on November 10, 1972?

6 A I was in Window Rock.

7 Q Did you witness the eviction of District 6?

8 A I actually saw the whole thing because I was there.

9 Q What happened there on November the 10th -- I
10 withdraw that.

11 On November 10th, 1972 and prior to that, where
12 were you living?

13 A Right there where my house is at: Echo Canyon.

14 I didn't live anywhere else.

15 Q Where were you born?

16 A At that same place.

17 Q How long has Mr. Finley Nelson lived in Echo
18 Canyon?

19 A We lived there all in one place.

20 Q For how long?

21 A We were born and raised there.

22 Q What improvement did Mr. Finley Nelson have in
23 Echo Canyon?

24 A He had a hogan there plus the sheep corral but we
25 had to sell those.

1 Q When was the last time that Finley Nelson lived in
2 Echo Canyon?

3 A He has always lived there and we moved out in 1972.

4 Q What was the -- what was it that you used to
5 live in when you were living in Echo Canyon? What type of
6 structure did you live in when you were living in Echo
7 Canyon?

8 A It was made out -- it had a rock foundation.
9 There was logs, stick built with dirt on top.

10 Q Is that -- Was that a house?

11 A It was rock -- I mean, stickbuilt house.

12 Q Now, how far was your house from Finley Nelson's
13 hogan?

14 A Very close distance. All of us lived within
15 close distance from each other.

16 Q Was Mr. Finley Nelson living there in February
17 1972?

18 A Yes. He had a hogan there.

19 Q How about in July 1972?

20 A Yes, he was living there.

21 Q How about in October 1972?

22 A He lived there.

23 Q At any time during October 1972 did Mr. Finley
24 Nelson leave that place and go somewhere else?

25 MR. LAUGHTER: After October?

1 MR. AUSTIN:

2 Q During October 1972.

3 A None. He didn't go anywhere.

4 Q Were you living there in the same area in October
5 1972?

6 A Yes.

7 Q Were you physically present there during that
8 whole month of October 1972?

9 A Yes.

10 Q Where was Finley Nelson at on November 10, 1972?

11 A He was at home.

12 MR. AUSTIN: That was an incorrect interpretation. I
13 asked where was Mr. Finley Nelson at November 1972.

14 MR. MERKOW: Is that what you asked?

15 MR. LAUGHTER: I didn't say the 10th.

16 MR. MERKOW: You have to be specific; say November 10th,
17 1972.

18 MR. LAUGHTER:

19 Q (Interprets)

20 A He was at his in-laws for two days and that's when
21 they burned down his house with all his utensils and stuff
22 like that.

23 MR. AUSTIN:

24 Q Did you witness the burning of Mr. Finley Nelson's

25

1 hogan?

2 A Yes.

3 Q Who did the burning?

4 A They were Hopi police that they brought in and
5 there was also an Anglo man from Tucson there.

6 Q What was it that was all burned that day?

7 A All our houses were burned, hogans.

8 Q To your knowledge, prior to November 10, 1972 has
9 Mr. Finley Nelson resided any place else other than Echo
10 Canyon?

11 A He has always resided there until they burned his
12 house.

13 Q Had Mr. Finley Nelson ever resided for more than
14 a week with his father-in-law?

15 A He only stayed there for two days. Then after his
16 house was burned down, he followed us to Window Rock.

17 Q To your knowledge, has Mr. Finley Nelson ever
18 owned any hogans or houses outside Echo Canyon?

19 A None.

20 Q How long have you known Mr. Finley Nelson's
21 children?

22 A Ever since he got married because all those boys
23 were born out there.

24 Q When Mr. Finley Nelson went over to his father-
25 in-law's residence, who all went with him?

1 A Just his wife.

2 Q Where was Mr. Finley Nelson's children at that time?

3 A They were in school.

4 Q Are you aware of the four lists that were created

5 on District 6 evictees?

6 A No, I don't know that.

7 Q Do you know if one of those lists has your name

8 on it?

9 A I don't know what list you're talking about. Is

10 it the list of people that have moved?

11 Q Have you applied to the Relocation Commission as

12 a District 6 evictee?

13 A Yes.

14 MR. TESSLER: I'll stipulate he has applied and was

15 found eligible and has moved already to my knowledge if

16 that's your questioning.

17 MR. AUSTIN:

18 Q Do you know if Mr. Finley Nelson has ever been

19 to a hospital prior to 1972?

20 A When he returned back from the services in 1945

21 he started going to these hospitals.

22 Q How often did he go to these hospitals to your

23 knowledge?

24 A Approximately one month at a time.

25 MR. AUSTIN: I have no further questions. Perhaps

1 Mr. Osetek has some questions.
2 BY MR. OSETEK (through Interpreter):
3 Q When Mr. Nelson was in the hospital for these
4 visits, who stayed back at the hogan?
5 A Just his children. Who else?
6 Q His wife and children did not go with him to the
7 hospital?
8 A No.
9 Q When Mr. Nelson went to visit his father -- his
10 father-in-law in October of 1972 did he take all his personal
11 belongings with him?
12 A No.
13 Q Did he tell you he was moving away from Echo
14 Canyon forever?
15 A No, never said that.
16 Q Did he ask you to watch over his house until he
17 came back?
18 A Yes.
19 Q Is there any question in your mind that he was
20 coming back to Echo Canyon?
21 A It was very plain that he would come back because
22 that's where he lived.
23 Q What remained of the hogan after it was burned
24 down?
25 A He didn't -- There was nothing left of the hogan

1 and his possessions. He came out of there with, you know,
2 no possessions.

3 Q Was there a wall or foundation remaining after the
4 fire?

5 A Only thing you could see was -- you could see the
6 stone foundation but there is no wall or stick or log.

7 Q Is that foundation still out there now?

8 A Yes.

9 MR. OSETEK: I have no further questions.

10 MR. MERKOW: You may cross examine.

11

12 CROSS EXAMINATION

13 BY MR. TESSLER (through Interpreter):

14 Q Mr. George, were you at Finley Nelson's wedding?

15 A No.

16 Q Do you know where he got married?

17 A At his wife's house because this is the Navajo
18 traditional way.

19 Q Where did Finley and his wife go to live after
20 the marriage?

21 A Echo Canyon where the hogan was.

22 Q Why didn't he go live with his wife?

23 MR. OSETEK: Objection.

24 MR. MERKOW: I'm not sure this witness is capable of
25 knowing that.

1 MR. OSETEK: It's irrelevant.

2 MR. MERKOW: Unless he had a conversation with Mr. Nelson
3 about that.

4 MR. TESSLER: I'll withdraw the question.

5 Q Do most Navajo men go live at their wife's place
6 when they are married?

7 MR. OSETEK: I object. We're talking about a specific
8 situation and not Navajo traditions. If he wants to bring
9 an expert in on Navajo traditions I'll allow it.

10 MR. MERKOW: What is the purpose of the line of question-
11 ing?

12 MR. TESSLER: To find out if in fact he went to live
13 with his wife.

14 MR. OSETEK: Just ask him that if --

15 MR. MERKOW: You asked him that and he said no.

16 MR. TESSLER: I'll withdraw it.

17

18 (CONVERSATION, MR. TESSLER/MR. OSETEK)

19

20 MR. MERKOW: Don't talk to each other.

21 MR. TESSLER (through Interpreter):

22 Q Do you know Mr. Nelson's children?

23 A Yes, I know them all.

24 Q Do they have relatives in Jeddito, in the Skunk
25 Springs area?

1 A Yes.

2 Q Where were Finley Nelson's kids raised?

3 A Echo Canyon.

4 Q Did they -- Do Finley Nelson's kids have -- No,
5 I'll withdraw that.

6 MR. TESSLER: I have no other questions of this witness.

7 MR. MERKOW: Any redirect?

8 MR. AUSTIN: I have no questions.

9

10 EXAMINATION BY HEARING OFFICER

11 BY MR. MERKOW (through Interpreter):

12 Q How many people were evicted from Echo Canyon
13 on November 10, 1972?

14 A There was two separate groups. One was the
15 Kabintos. I don't know how many -- There was two groups. One
16 was the Kabinto. I don't know how many children they had.
17 And there was us. We lived on top of a mesa. I don't
18 know the exact number because six members deceased and my
19 sister had a list of the names on paper and she said she
20 would bring it but she didn't come. I could bring it later.

21 Q Tell me what happened that day.

22 A It's not easy in moving us out. They brought in
23 guns, Hopi police. There was helicopters above us and all
24 our houses were burning. It's not a helicopter but an
25 airplane.

1 Q Where did you go when you were evicted?
2 A We were sitting there with our blankets. Then
3 the following day trucks came in from Window Rock that took
4 us out.

5 Q How long did you stay in Window Rock?

6 A I lived there for six years.

7 Q Did Finley Nelson come to Window Rock?

8 A Yes.

9 Q When?

10 A In 1972. He followed us there.

11 Q How long did he stay in Window Rock?

12 A About one week.

13 MR. MERKOW: Do either one of you have any questions
14 in light of my questions?

15 MR. TESSLER: No.

16 MR. MERKOW: Mr. Austin?

17 MR. AUSTIN: Yes.

18

19 REEXAMINATION

20 BY MR. AUSTIN (through Interpreter):

21 Q Did you have any other place to go after you were
22 evicted besides Window Rock?

23 A That was the only place. It was only so many years
24 after that that I went to White Cone and approached my grand-
25 father if I could live there and I have a one and a half